

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/755,520	Confirmation No.	1396
Applicant	:	Larry Keith Bruening		
Filed	:	01/12/2004		
Title	:	CALL-ROUTING SYSTEM AND METHOD		
Group Art Unit	:	2614		
Examiner	:	Thjuan Knowlin Addy		
Docket No.	:	2429/SPRI.106545		
Customer No.	:	32423		

VIA EFS –March 9, 2009

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.181 TO VACATE AN IMPROPER FINAL REJECTION

Dear Sir:

Applicants hereby petition under 37 C.F.R. § 1.181 to vacate the Final Rejection in this case, mailed November 25, 2008. Accompanying this petition is:

- 1) A Statement of Facts involved.
- 2) Points to be reviewed
- 3) Action requested (remove of the finality of Final Office Action)

The Commissioner is hereby authorized to charge the required petition fee of \$400.00, or any additional fees that are required, to Deposit Account No. 21-0765 referencing Attorney Docket No. 2429/SPRI.106545.

Statement of Facts Involved

1. On 05/02/08, the Office issued a non-final Office Action.
2. On 08/01/08, Applicants responded, with claim amendments.
3. On 11/25/08, the Office issued a Final Rejection. Though Applications included several amendments, this action, for example, only a single paragraph is used to support a 35 U.S.C. § 102(e) rejection that that rejected 10 claims, 9 of which were independent. Applicants respectfully assert that that the rejection of claims 8, 18, 25, 28, 29, 32 and 41 amounts to an omnibus rejection, precluded by MPEP § 707.07(d).
4. On 01/20/09, consistent with 37 C.F.R. § 1.181(c), Applicants requested reconsideration of the Final Rejection. Applicants also asserted their position that the aforementioned rejections amounted to a prohibited omnibus rejection.
5. On 02/24/09, the Office issued an Advisory Action partially correcting the deficiencies of the Final Rejection, but still not explain how the cited reference anticipates independent claims 8, 25, and 32.

Points to be Reviewed

The Final Rejection of November 25, 2008 should be vacated due to an improper omnibus rejection of independent claims 8, 25, and 32.

Action Requested

I. The removal of finality of the outstanding Final Office Action.

The Applicants respectfully submit that the Final Office Action (hereinafter “the Office Action”) mailed November 25, 2008 combined with the Advisory Action mailed February 19, 2009 include an improper omnibus rejection of independent claims 8, 25, and 32, rendering the entire Action defective. With respect to omnibus rejections, MPEP states:

A plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group.

MPEP § 707.07(d). The Office Action states that independent claims 1, 8, 13, 18, 25, 28, 29, 32, 39, and 41 are anticipated by U.S. Publication No. 2006/0026001 to Bravin et al. (“Bravin”).

Office Action of November 25, 2008, pg. 3. However, the Examiner only ever explained how citations from Bravin apply to independent claim 1. The Examiner partially corrected this issue in an Advisory Action dated February 19, 2009. However, the grounds for this rejection are still not properly applicable to independent claims 8, 25, and 32 at least because these claims have elements that are not recited in independent claim 1. Illustrative examples include “extracting source information from said request,” as recited in independent claim 8; “receiving a request to establish said communications link between said set of persons, wherein said request is to be directed to one of a plurality of receiving components,” as recited in independent claim 25; and “extracting source information from said communications request,” as recited in independent claim 32. All of the aforementioned elements are not present in independent claim 1 and therefore not properly rejected in the Office Action.

The aforementioned improper rejection was addressed by the Applicants in a timely Response dated January 20, 2009, in which the Applicants properly requested reconsideration by the Examiner and issuance of a Supplemental Office Action as supported by the MPEP, which states:

Where ... an Office action contains some other error that affects the applicant's ability to reply to the Office action ...the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period...A supplementary action after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited establishes a new date from which the statutory period runs.

MPEP § 710.06. However, the in an Advisory Action dated February 19, 2009, the Examiner responded to some of the Applicant's request for clarification, but did not provide a complete response with regards to aforementioned claims. As such, the Applicant respectfully

requests withdrawal of the Final Office Action and issuance of a Supplementary Action explicitly explaining how the cited reference anticipates the aforementioned claims.

II. Entry of Applicant's 01/20/09 Response.

Because reasons that explain the rejections of claims 8, 25, and 32 have never been provided, they should not have been twice "rejected," and our January 20th Response should have been entered, as going final was improper. Thus, we also respectfully request that our Response be entered and considered.

Respectfully submitted,

/Jesse J. Camacho/

Jesse J. Camacho
Reg. No. 51,258

JJCZ/CAP/tq
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
816-474-6550